IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-9-2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.7773 of 2007
and
MP Nos.1 and 2 of 2007

Vaithialingam .. Petitioner

vs

1.Director General of Police
Chennai 600 004.
2.Deputy Inspector General of Police
Villupuram Range
Villupuram
3.Superintendent of Police
Villupuram Range
Villupuram .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records issued by the 1st respondent in his proceedings Rc.No.248564 NGB IV(1) 2006 dated 24.1.2007 and quash the same and direct the respondents to promote the petitioner as Sub Inspector of Police/Inspector of Police on par with the juniors who were promoted.

For Petitioner : Mr.V.Gangatharan
For Respondents : Mr.N.Senthilkumar
Additional Government Pleader

ORDER

Invoking the writ jurisdiction of this Court, the petitioner has brought forth this writ petition seeking to quash the orders of the first respondent in Rc.No.248564 NGB IV(1) 2006 dated 24.1.2007, whereby his representation for promotion was rejected, and also to issue a direction to the respondents to promote the petitioner as Sub Inspector of Police/Inspector of Police on par with the juniors who are promoted.

2.The Court heard the learned Counsel on either side.

3.The case of the petitioner in short is that he joined the police service in the year 1972 as a Constable; that while he was working, certain charges were levelled against him in P.R.No.176/78; that an enquiry was conducted by the Enquiry Officer; that out of the two charges, one was found proved; that following the same, the Superintendent of Police dismissed him from service; that he took it on appeal before the D.I.G. of Police, Chengalpattu Range, where the order passed by the Superintendent of Police, dismissing the petitioner, was set aside, and he

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was reinstated in service; that thereafter, for the same allegations, the Deputy Superintendent of Police issued a charge memo; that he immediately filed a writ petition in WP No.10038 of 1985 before this Court; that the same was stayed; that the matter was transferred to the Tamilnadu Administrative Tribunal in T.A.No.377 of 1992 wherein the charge memo issued by the Deputy Superintendent of Police, was set aside; that the Tribunal has also observed that he is entitled to all monetary and service benefits; that he filed O.A.No.29 of 2000 before the Administrative Tribunal for a direction to promote him to the appropriate post of Head Constable and Sub Inspector of Police pending P.R. No.50 of 1985; that now, there was no P.R. pending against him; that he is entitled for promotion as Sub Inspector of Police and Inspector of Police; that the persons appointed, who are all juniors to him, have been promoted; that under the circumstances, he gave several representations to the respondents; that the said transfer application was disposed of by the Tribunal on 12.7.2002; that promotion was not at all considered; that the Tamil Nadu Administrative Tribunal allowed the application setting aside the charge memo, and observed that he is entitled to all the service and monetary benefits; that the order of the Tribunal is not complied with by the respondents; that under the circumstances, he filed WP No.46940 of 2006 before this Court for a direction to promote the petitioner as Sub Inspector of Police or Inspector of Police; that this Court passed an order on 4.12.2006 directing the respondents to consider the petitioner's eligibility for promotion; that following the same, the representation was rejected by the first respondent, and under the circumstances, this writ petition has been brought forth.

4.The learned Counsel for the petitioner stressed on two points. Firstly, the rejection of the representation was against the principles of natural justice. Secondly, all his juniors who are equally placed, were promoted, and under the circumstances, he should have also been promoted. The learned Counsel would further submit that even there was discrimination noticed, and hence, the writ petition has got to be ordered.

5.The Court heard the learned Additional Government Pleader. According to him, the representation was well considered by the authority, and a detailed order has also been passed, which is the subject matter of challenge, and from the order, it would be clear that as far as the case of one Sundaramurthy was concerned, he was equally placed with the petitioner; but, this petitioner has actually waived his seniority and opted to go to the local police forgoing the seniority in A.R. in 1976 itself, and as far as the other candidate by name Ameer Jhon, was concerned, though he belonged to the same batch, his seniority is above the petitioner at the time of the appointment itself, and under the circumstances, the petitioner was only to be promoted as Head Constable which has also been done, giving retrospective effect, and hence, the writ petition has got to be dismissed.

6.The Court paid its anxious consideration on the submissions made. This Court is unable to see any merit in the writ petition.

7.It would be unnecessary to go into the details narrated above. After the passing of the order in the writ petition referred to above, to consider the representation of the petitioner for eligibility as to the seniority, the respondent has passed an order rejecting the representation. From the very reading of the order, it would be quite

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clear that one Sundaramurthy was enlisted as GR.II PC on 12.2.1974. It is true that this petitioner should have also been given the seniority. But, in the year 1976 itself, the petitioner has opted to go to the local police forgoing his seniority, which fact is not denied. As far as the other candidate Ameer Jhon was concerned, though he belonged to the same batch of the petitioner, he was senior in the list at the time of appointment itself. Now, the petitioner cannot come forward with the grievance to state that both Sundaramurthy and Ameer Jhon have been equally placed, and they have been given promotion, but not the petitioner. It is an admitted position that he was promoted as Head Constable with effect from 16.1.1998 and completed the probation in the category of Head Constable on 18.10.2006. That apart, it has been given retrospective effect also. Under the circumstances, no grievance could be ventilated by the petitioner. Hence, this writ petition does not carry any merit.

8.In the result, this writ petition is dismissed. No costs. Consequently, connected MPs are also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

nsv/

To:

1.The Director General of Police
Chennai 600 004.

2.The Deputy Inspector General of Police
Villupuram Range
Villupuram

3.The Superintendent of Police
Villupuram Range
Villupuram

1 CC To Mr.R.Ganesan, Advocate, SR NO.56422.
1 CC to the Government Pleader, SR NO.56661.

WP No.7773 of 2007

KA(CO)
RVL 14.09.2007

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